

Docket: 10/748,117

REMARKS

This is a preliminary amendment before a first Office Action on the merits.

Claims 1-85 are pending herein.

The application was filed on 12/29/2003 with 85 claims that included the various multiple dependencies that have been eliminated in this Preliminary Amendment.

A Notice to File Missing Parts was mailed to the Applicant on April 13, 2004, requiring the filing of the executed Declaration, basic and late filing fees (\$770 and \$130), and \$11,108 in additional claims fees (\$290 for multiple dependent claims and \$10,818 for 601 claims in excess of 20) due to the various multiple dependent claims that were present in the application on filing.

The applicant responded to the Notice to File Missing Parts on June 14, 2004, which response included an executed Declaration and a check in the amount of \$2360. The Notice of Incomplete reply indicated that additional claims fees in the amount of \$9,648 for 601 claims in excess of 20 were due, and that the period for reply continued to run from the mailing date of the Notice to File Missing Parts. The applicant failed to reply to the Notice of Incomplete Reply, which failure to reply was unintentional.

It is noted that the application status is shown on the PTO PAIR system as "Application Undergoing Preexam Processing". The Application is not identified as "Abandoned", nor has the Applicant received a Notice of Abandonment from the PTO to date. At the request of the Applicant, the undersigned attorney's office placed a telephone call to the PTO to determine the status of the application on Friday, January 27, 2006 and was informed that, even though a Notice of Abandonment has not been mailed by the USPTO, the application has technically gone abandoned for failure to respond to the Notice of Incomplete Reply.

Consequently, a Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) is filed herewith.

The claims are amended in this Preliminary Amendment to eliminate all multiple dependent claims, and to reduce the total number of claims to 85, Claims 1 and 40 being the only independent claims.

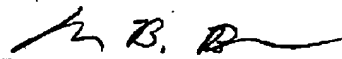
Docket: 10/748,117

Per the new fee schedule that went into effect on 12/8/2004, the additional fees due for 65 claims in excess of 20 amounts to \$3,250 (65 claims @\$50/claim, large entity). The applicant paid \$2,360 in the Response to the Notice to File Missing Parts that was filed on June 14, 2004 (\$770 basic filing fee, \$130 late fee, and \$1,460 additional/multiple dependent claims fees, leading to the additional \$9,648 that was due in response to the Notice of Incomplete Reply). The PTO is authorized to charge the balance now due, i.e. the additional claim fee due of \$3250 less the \$1460 previously paid toward additional claims, as well as the \$1500 fee for the Petition to Revive, total \$3290) to the undersigned attorney's PTO Deposit Account #50-1047.

Applicant submits that Claims 1-85 are in condition for examination, early notification of which is earnestly solicited. Should the Examiner be of the view that an interview would expedite consideration of this Amendment or of the application at large, request is made that the Examiner telephone the Applicant's attorney at (703) 433-0510 in order that any outstanding issues be resolved.

If there are any fees due and owing in respect to this amendment, the Examiner is authorized to charge such fees to deposit account number 50-1047.

Respectfully submitted,



David B. Bonham
Registration No. 34,297

Please continue to forward all correspondence to:

Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville, CA 94662-8097